

6-21-2024 Civil L&M Tentative Rulings

1. CL0000572 Gerry Reis v. Roger Reis

Defendant's demurrer is sustained with leave to amend. Defendant argues that the complaint fails to state a cause of action and is uncertain. The court agrees. A civil complaint must state the facts upon which the claims are based. This complaint does not include any such allegations. Plaintiff has checked box 10(a) indicating that a motor vehicle cause of action is attached, but has instead attached a "general negligence" cause of action. The general negligence cause of action does not say *who* did something wrong, *what* that person did wrong, and *how* that caused harm to plaintiff. The demurrer is sustained with leave to amend. Plaintiff may file an amended complaint within 20 days of service of the order after hearing, to correct the problems outlined here. Appearances are required.

2. CL0000939 Discover Bank v. Sharon Deal

The motion to relieve counsel is granted upon proof of service of the order upon the client. Counsel shall prepare an appropriate order listing all future court dates. No appearances are required.

3. CU0000079 Walter Crawford v. The County of Nevada

Defendants' motion for summary judgment is continued until July 26, 2024 at 10:00 a.m. No appearances are required.

4. CU0000562 Don Zeppenfeld, et al. v. Martin Reilley, et al.

Defendants' motion for reconsideration is continued until August 2, 2024 at 10:00 a.m. Additional briefing is requested to address this question: Is the instant lawsuit an "enforcement proceeding" for purposes of Code of Civil Procedure section 683.160? Be sure to comment on the relevance, if any, of Code of Civil Procedure section 681.010. Both parties' briefs of no more than 5 pages shall be submitted by July 12, 2024 at noon. No appearances are required.

5. CU0000569 Susan Foote vs. Jenny Renee Hunter Kaeding

Defendant's motion to continue trial is granted, in part. Defendant has shown good cause for solely a brief continuance to complete discovery. Trial is continued to September 3, 2024 at 9:00 a.m.; pretrial conference is continued to August 23, 2024 at 11:00 a.m.; mandatory settlement conference is continued until August 12, 2024 at 10:00a.m.

6. CU0001293 Minta Mae Stovall vs. WMPD LLC, et al.

Plaintiff's motion for trial preference is granted. Per Code of Civil Procedure section 36(f), the trial must be set within 120 days of the order granting preference. The trial and associated dates will be set at the June 24, 2024 case management conference.

The motion of defendants Alderson and WMPD to quash service of summons is denied. As a preliminary matter, the court need not resolve plaintiff's June 7, 2024 evidentiary objections to the Alderson declaration for purposes of this motion. The court sustains plaintiff's June 7, 2024 objections to MMSP/Alderson's request for judicial notice.

Alderson/WMPD first argue that they were exempt from service of process during Alderson's court appearance in California due to the application of the "Immunity Rule." The court disagrees. The Immunity Rule no longer applies under current law. *See Severn v. Adidas Sportschuhfabriken*, 33 Cal.App.3d 754, 762 (1973); *Silverman v. Superior Ct.*, 203 Cal.App.3d 145, 149 (1988). In addition, Alderson did not appear at the courthouse voluntarily, but to surrender on an arrest warrant. Under these facts, the Immunity Rule would not apply even if the court were inclined to revive it.

Next, Anderson/WMPD argue that this court lacks personal jurisdiction because moving parties do not have sufficient minimum contacts with the state. The court is not persuaded. "A court may exercise specific jurisdiction over a nonresident defendant only if: (1) the defendant has purposefully availed himself or herself of the forum benefits; (2) the controversy is related to or arises out of [the] defendant's contacts with the forum; and (3) the assertion of personal jurisdiction would comport with fair play and substantial justice." *Pavlovich v. Superior Ct.*, 29 Cal.4th 262, 269 (2002) (citations and internal quotations omitted). Here, the evidence presented, including the verified complaint, sufficiently establishes that Anderson/WMPD have purposely availed themselves of this forum's benefits by taking an interest in, conducting transactions pertaining to, and commencing foreclosure proceedings on a real property located in this forum. *See Plaintiff Op*, at 9:27-10:20.

Anderson/WMPD also suggest that a forum selection clause compels that this matter be litigated in the state of Nevada. Not so. "[A] party may move to stay or dismiss the action on the ground of inconvenient forum." *Miller-Leigh LLC v. Henson* (2007) 152 Cal.App.4th 1143, 1150. The application of a forum selection clause is not properly before the court at this time for resolution and is irrelevant to the question of personal jurisdiction.

In light of the court's orders granting trial preference and the resulting accelerated trial timeline, moving defendants shall file their answer/responsive pleading by July 1, 2024.

7. CU21-085655 Nicholas Findley vs. Christopher Anderson, et al.

Defendants/cross-complainants' demurrer and motion to strike are continued until July 5, 2024 at 10:00 a.m.